

TWENTY-TWO

The Grand Jury: A Tool to Repress and Jail Activists

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[W]e have witnessed the birth of a new breed of political animal—the kangaroo grand jury—spawned in a dark corner of the Department of Justice, nourished by an administration bent on twisting law enforcement to serve its own political ends, a dangerous modern form of Star Chamber secret inquisition that is trampling the rights of American Citizens from coast to coast.

—Senator Edward M. Kennedy testifying
before a House Judiciary Subcommittee, March 1992.

Imagine a country where a prosecutor can subpoena you to a grand jury and ask you anything about your life and thoughts. There are no limits to the scope or breath of the inquiry, and the prosecutor can ask about your friends, for example, or your political affiliations, what you or your friends think of the president, Cuba, Malcom X, Mumia Abu-Jamal, the

Palestinian struggle, independence for Puerto Rico, East Timor, or any other subject. Even your sex life is not off limits.¹ Imagine also that this entire proceeding is secret; only the prosecutors, the grand jurors, a stenographer, and you are present. Not even your attorney is permitted to accompany you. Imagine that after you are subpoenaed, the prosecutor also can subpoena your children, your mother and father, and all of your friends and ask them all about you.

Now, you might think that you had a right not to answer any of these harassing and abusive questions. You might think that you had a Fifth Amendment right not to incriminate yourself; after all, the Constitution does provide you with such a right. But no. You must answer all of the questions. The prosecutor need only promise not to use what he learns against you. What is learned can be used against others, including your friends. And you still can be indicted for the crime about which you testified. To indict, the prosecutor must use independent evidence, incriminating evidence that supposedly comes from an alternative source.

After being granted immunity, if you refuse to answer the questions, if you refuse to name names, if you refuse to discuss your or another's political ideology, you go to jail. You go to jail until you talk. It makes no difference whether you have children or a job or are ill. You go to jail until you talk. You can go to jail for a very long time, sometimes for years.

You might think, "Well, I have nothing to worry about. I am not a criminal and I am not friends with criminals. This cannot happen to me." But you would be wrong. All kinds of people can get caught up in grand jury dragnets. In fact, one of the illegitimate uses of a grand jury is to destroy political movements, intimidate activists, and jail political leadership.

Grand juries often are used as weapons to repress political movements that organize for social change. They were used against the labor movement in the 1900s, the Communists in the 1950s, antiwar activists, Irish nationalists, and Black Panthers in the 1960s and 1970s, and Puerto Rican Independentistas for the last seventy years. Thousands of activists have been subpoenaed and had their lives ruined and their movements weakened.